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February 14, 2008

The Honorable Susan Illston
U. S. District Court Judge
U.S. District Court, Northern District of California
450 Golden Gate Avenue
Courtroom 10, 19th Floor
San Francisco, CA 94102

Re: *Noble v. Kiewit, et al.*
U. S. District Court, Northern District of California Case No. C 3:08-CV-00666-SI

Dear Judge Illston:

We write in regards to the Court's Order requiring Defendants to depose Plaintiff Richard Noble.

Defendants are amendable to taking the deposition of Mr. Noble in his home in Concord. Defendants will make court reporter and videographer arrangements for same. However, as I indicated to opposing counsel in email communications, I am not able to begin the depositions on February 21st and 22nd as early as 9:00 a.m. I would request that the depositions begin instead at 10:00 a.m. at the earliest.

As for the order of examination, Defendants have been compelled to take the deposition of Mr. Noble. Defendants see no justification for counsel's request that Defendants wait to conduct the deposition they have been compelled to take until after Plaintiffs' counsel has potentially exhausted Mr. Noble's ability to respond to questioning. This is far more prejudicial than that which Plaintiffs requested in their motion, and stays well beyond Defendants' understanding of the Court's Order. If Plaintiffs' counsel chooses to examine their own client, they should be required to wait until Defendants have concluded their deposition to do so. The motion made was simply to require Defendants to expedite the taking of Mr. Noble's deposition. This should not change the standard procedure. The fact that the video may later be played is, quite frankly, a red herring. The portions each side chooses to play will not reveal an order of examination to the jury.

Defendants have advised that they are willing to conduct the deposition for a limited number of hours on two different days (February 21 and 22 as Ordered) to assure that Mr. Noble's health is not adversely affected.



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I am available to discuss this matter at the Court's convenience and will take a break in my depositions whenever the Court indicates the parties should discuss the matter with the Court. I would request that the Court's e-filing notice of a time for a conference include in the body, if possible, the particulars as I am unable from my Blackberry to login to review the actual filing.

Thank you for your time.

Very truly yours,

SEYFARTH SHAW LLP

A handwritten signature in black ink, appearing to read "Kari Erickson Levine".

Kari Erickson Levine

KEL/lmf

cc: Craig Hansen (e-filing)